

1
2
3
4
5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
7

8 DUSTIN GORMLEY, *et al.*,

Consolidated Case No. C 11-893 SI

9 Plaintiffs,

ORDER RE: DISCOVERY

10 v.

11 NIKE INC., *et al.*,

12 Defendants.
13 _____/

14 On May 11, 2012, the parties filed a joint letter regarding a number of discovery disputes. The
15 parties have since informed the Court that only one of those disputes remains outstanding, specifically
16 whether defendants are required to produce “All agreements in existence during the period from
17 February 24, 2010 to the present, between YOU and any third party vendors retained to process
18 (including reverse appending) PERSONAL IDENTIFICATION INFORMATION obtained from YOUR
19 customers.” Plaintiffs’ Request for Production No. 4.

20 Plaintiffs contend that these agreements are discoverable because “who this third party is, how
21 and when each customer’s information is or has been used or processed by it, and how it and Nike profit
22 from it are all matters which will aid this Court in determining the nature, scope and definition of any
23 class or subclass(es) to be certified, as well as the magnitude of any penalties assessed.” Docket No.
24 59 at 3. Defendants object to production on the grounds that the agreement has been deemed
25 confidential by Nike and the third party vendor, and that the underlying contract is irrelevant because
26 it “focuses on defining the legal relationship between the contracting parties without providing any
27 detailed explanation as to how the ZIP codes Nike collected from its credit card customers were
28 recorded, stored, or used in any way.” *Id.* Defendants assert that “to the extent the agreement relates

1 to relevant issues in this case, it does so only at a high level while also touching on several other issues
2 that are plainly not relevant.” *Id.*

3 The Court concludes that the third party vendor agreements are discoverable, and that
4 confidentiality concerns can be addressed by the parties’ protective order. Plaintiffs allege that Nike
5 unlawfully requested and recorded ZIP codes at the point of sale during credit card purchase transactions
6 for marketing purposes, and Nike’s agreements with third party vendors retained to process the ZIP code
7 information are potentially relevant – if only at a “high level” – to plaintiffs’ claims. Accordingly, the
8 Court GRANTS plaintiffs’ motion to compel production of the agreements. Defendants shall produce
9 the agreements, pursuant to the protective order if necessary, by **August 3, 2012**.

10 This order resolves Docket No. 59.

11
12 **IT IS SO ORDERED.**

13
14 Dated: July 25, 2012



15
16
17
18
19
20
21
22
23
24
25
26
27
28

SUSAN ILLSTON
United States District Judge